



Federal Communications Commission
Washington, D.C. 20554

August 7, 2008

DA 08-1860

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CERTIFIED MAIL – RETURN RECEIPT REQUESTED

CMCG Portland License LLC
WPFO(TV)
233 Oxford Street
Suite 35
Portland, Maine 04101

Re: CMCG Portland License LLC
WPFO(TV), Waterville, Maine
Facility ID No. 84088
File No. BRCT-20061201AFT

Dear Licensee:

This refers to your license renewal application for station WPFO(TV), Waterville, Maine.

Section 73.3526 of the Commission's Rules (Rules) requires each commercial broadcast licensee to maintain a public inspection file containing specific types of information related to station operations.¹ Section 73.3526(e)(11)(i) provides that a TV issues/programs list is to be placed in a commercial TV broadcast station's public inspection file each calendar quarter. Moreover, as set forth in Section 73.3526(e)(11)(iii) of the Rules, each commercial television broadcast station is required to prepare and place in its public inspection file a Children's Television Programming Report (FCC Form 398) for each calendar quarter reflecting, *inter alia*, the efforts it has made during the quarter to serve the educational needs of children. Section 73.3526(e)(11)(iii) of the Rules also requires commercial television stations to file the reports with the Commission and to publicize the existence and location of the reports. Where lapses occur in maintaining the public file, neither the negligent acts nor omissions of station employees or agents, nor the subsequent remedial actions undertaken by the licensee, excuse or nullify a licensee's rule violation.²

In the Children's Television Act of 1990, Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. §§ 303a, 303b and 394, Congress directed the Commission to adopt rules, *inter alia*,

¹ See 47 C.F.R. § 73.3526.

² See *Padre Serra Communications, Inc.*, 14 FCC Rcd 9709 (1999) (citing *Gaffney Broadcasting, Inc.*, 23 FCC 2d 912, 913 (1970) and *Eleven Ten Broadcasting Corp.*, 33 FCC 706 (1962)); *Surrey Range Limited Partnership*, 71 RR 2d 882 (FOB 1992).

limiting the number of minutes of commercial matter that commercial television stations may air during children's programming, and to consider in its review of television license renewal applications the extent to which the licensee has complied with such commercial limits. Pursuant to this statutory mandate, the Commission adopted Section 73.670 of the Rules which limits the amount of commercial matter which may be aired by such stations during children's programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays.

On December 1, 2006, you filed the above-referenced license renewal application for station WPFO(TV). In response to Section IV, Question 3 of that application, you certified that, during the previous license term, station WPFO(TV) failed to place in the public inspection file at the appropriate times, all of the documentation required by Section 73.3526 of the Commission's Rules. In Exhibit 17, you indicated that station WPFO(TV)'s Children's Television Programming Reports for the second through the fourth quarters of 2003 and all of 2004 were not placed in its public inspection file on a timely basis. In addition, you reported that station WPFO(TV)'s TV issues/programs lists for the first, third, and fourth quarters of 2003 and the first and second quarters of 2004 were placed in the public inspection file late. You attributed all of the above described violations to errors on the part of a station employee and recounted corrective measures to ensure future compliance.

In response to Section IV, Question 5 of the license renewal application, you certify that, during the previous license term, WPFO(TV) failed to comply with the limitations on commercial matter in children's programming specified in Section 73.670 of the Commission's Rules. In Exhibit 19, you indicate that station WPFO(TV) violated the children's television commercial limits and policies on eight occasions between July 10, 2004, and February 12, 2005. Of those violations, five were 30-seconds in duration and three were 15-seconds in duration. You maintained that steps were taken to ensure future compliance.

The public inspection file rule serves the critical function of making available to the public in a timely fashion important information related to station operations. Admittedly, you were lax in timely placing Children's Television Programming Reports and TV issues/programs lists in WPFO(TV)'s public inspection file. You were also lax in ensuring compliance with the children's television programming commercial limitations. Although we do not rule out more severe sanctions for violations of this nature in the future, we have determined that an admonition is appropriate at this time. Therefore, based upon the facts and circumstances before us, we ADMONISH you for the admitted violations of Sections 73.3526 and 73.670 of the Rules described in station WPFO(TV)'s renewal application.

Accordingly, IT IS ORDERED that, a copy of this Letter shall be sent by First Class and Certified Mail, Return Receipt Requested to the licensee at the address listed above, and to its counsel, Erwin G. Krasnow, Esquire, Garvey Schubert Barer, 1000 Potomac Street, N.W., Fifth Floor, Washington, D.C. 20007-3501.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau